

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ERNEST MACHADO,

No. C 05-01632 WHA

Petitioner,

v.

**ORDER GRANTING REQUEST
FOR EXTENSION OF TIME**

ANTHONY KANE, Warden, Correctional
Training Facility, Soledad,

Respondent.

Respondent moved on December 9, 2005, for an extension of his deadline to file an answer. He now asks to file it as late as January 24, 2006. Respondent asserted that this Court had not issued a deadline for respondent's answer. He also stated that Federal Rule of Civil Procedure 12(a)(4)(A) therefore set a deadline of December 16, 2005, for the answer, ten days after this Court denied respondent's motion to dismiss.

Respondent is mistaken. This Court did issue a deadline. In its order of September 29, 2005, this Court ordered respondent to answer within sixty days of service upon him of the order to show cause. The order was served on or about October 3, 2005. FRCP 12(a)(4)(A) states that the ten-day answer period only applies when a court order has not fixed a different deadline. In this case, the order of September 29, 2005, controls. Respondent's answer therefore was due on or about December 2, 2005. It is now two weeks late.

The time for objection to respondent's motion has passed without any being registered by petitioner.

1 This Court values highly the state's input on this petition and therefore **GRANTS**
2 respondent's motion. In the future, closer attention to the deadlines set by the Court would be
3 appreciated.

4 **IT IS SO ORDERED.**

5
6 Dated: December 16, 2005



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE